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5 Attorneys for Plaintiffs

6  
7 UNITED STATES DISTRICT COURT  
8 NORTHERN DISTRICT OF CALIFORNIA  
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10 BOARD OF TRUSTEES OF THE  
NORTHERN CALIFORNIA FLOOR, et al.

11 Plaintiffs,

12 vs.

13 BEVIL'S FLOOR SERVICE, INC., etc.,

14 Defendant.  
15

Case No. C 07 3207 JL

DECLARATION OF ROSE CORTEZ  
IN SUPPORT OF MOTION FOR  
DEFAULT JUDGMENT

16 I, ROSE CORTEZ, declare:

17 1. I am employed as the Supervisor Representative of Associated Third Party  
18 Administrators, 1640 South Loop Road, Alameda, CA 94502, administrators of the Northern California  
19 Floor Covering Industry Welfare Fund, hereinafter the "Trust Fund". In my capacity I am custodian of  
20 and am familiar with the collective bargaining agreements, books and records of the Trust Fund as they  
21 relate to the defendant in this case. If called as a witness, I could competently testify to the following  
22 facts from my own personal knowledge.

23 2. Attached hereto and marked Exhibit 1 is a true and correct copy of the pertinent  
24 pages of the Master Agreement executed by the defendant for the period July 1, 2005 through June 30,  
25 2008. This agreement requires defendant to make prompt monthly payments to the Trust Fund on behalf  
26 of all covered employees, an obligation which has been breached. Defendant has not denied being  
27 bound by this agreement inasmuch as he has reported and paid contributions since the effective date of  
28 the contract.

1           3. Article 16 of Exhibit 1 incorporates by reference the trust agreement. Attached as  
2 Exhibit 2 is a copy of the Trust Agreement, Amendments and Trustees Resolution effective January 1,  
3 2000 of the Northern California Floor Covering Industry Welfare Fund which provides for liquidated  
4 damages, attorneys fees and court costs in the event of suit. These provisions comply with 29 U.S.C.  
5 §1132(g).

6           4. Every month my office sends to defendant a preprinted form listing all known covered  
7 employees and the fringe benefit contribution rates. The defendant is then to complete the reporting  
8 form by making corrections, deleting employees who left the company and adding names of hired  
9 employees. The defendant is then to fill out the mathematical portion of the report and total up all sums  
10 due for that month. This is the so-called "self reporting method".

11           5. Attached hereto and marked Exhibit 3 are my computations of the liquidated damages  
12 and interest owed by the defendant for the months of June 2007 through February 2008.

13           6. Attached hereto and marked Exhibit 4 are the reports for the months of June 2007  
14 through February 2008. These reports were voluntarily submitted by defendant. The amount of these  
15 reports matches the contribution column of Exhibit 3.

16           7. The liquidated damages have been computed at 20% as required by the Trust  
17 Agreement, Exhibit 2, Trustees Resolution effective January 1, 2000, Article II, Section F: The Chronic  
18 Delinquent.

19           8. In addition, interest at the rate of 6% is due pursuant to the Trust Agreement and  
20 29 U.S.C. §1132(g), inasmuch as it is the lowest rate charged by the Internal Revenue Service at this  
21 time. Interest for each contribution amount has been calculated from the due date of the 15th of the  
22 month following the month the work was done to the date paid. (For example, contributions for June  
23 2007 in the amount of \$4,909.78 were due on July 15, 2007. Between July 15, 2007 and the payment  
24 date of July 20, 2007 is 5 days. Interest on the contribution amount of \$4,909.78 at the rate of 6% is  
25 a daily amount of 81¢ which multiplied by 5 days equals the figure of \$4.05.)

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1 9. The following summary of all sums due and owing can be made:

2 Principal

3 Liquidated damages \$32,347.62

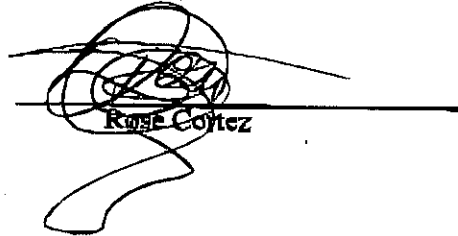
4 Interest \$ 167.28

5 Costs of Suit \$ 500.00

6 Attorneys Fees To be determined by Court

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8 I declare under penalty of perjury that the foregoing is true and correct.

9 Executed on May 8, 2008 at Alameda, CA.

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